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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 RICHARD A. FISHER,

9 Petitioner,

10 v.

11 JEFFERY A. UTTECHT,

12 Respondent.

CASE NO. C19-5296 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Theresa L. Fricke, United States Magistrate Judge, Dkt. 13, and
14 Petitioner Richard Fisher’s (“Fisher”) objections to the R&R, Dkt. 14.

15 On July 29, 2019, Judge Fricke issued the R&R recommending that the Court
16 dismiss Fisher’s petition without prejudice for failure to exhaust. Dkt. 13. On August
17 11, 2019, Fisher filed objections. Dkt. 14.

18 The district judge must determine de novo any part of the magistrate judge’s
19 disposition that has been properly objected to. The district judge may accept, reject, or
20 modify the recommended disposition; receive further evidence; or return the matter to the
21 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).
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1 In this case, Fisher contests the well-settled and binding precedent that he must
2 exhaust his state court remedies before seeking relief in a federal habeas petition. Dkt.
3 14. Fisher's argument do not persuade the Court to carve out an exception to "one of the
4 pillars of federal habeas corpus jurisprudence." *Calderon v. U.S. Dist. Court for N. Dist.*
5 *of California*, 134 F.3d 981, 984 (9th Cir. 1998). Therefore, the Court having considered
6 the R&R, Fisher's objections, and the remaining record, does hereby find and order as
7 follows:

- 8 (1) The R&R is **ADOPTED**;
- 9 (2) Fisher's petition is **DISMISSED without prejudice**;
- 10 (3) Certificate of Appealability is **DENIED**; and
- 11 (4) The Clerk shall enter a JUDGMENT and close the case.

12 Dated this 7th day of October, 2019.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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